IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 98 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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AVANI PETROCHEM PVT. LTD. - Applicant(s)
Versus
. - Respondent(s)

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Appearance :
MR HARMISH K SHAH for Applicant(s) : 1,
None for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 27/02/2007

ORAL JUDGMENT

This Judge's Summons has been taken out by the applicant, Avani Petrochem Pvt.Ltd., [Transferee Company] to dispense with meeting of

equity shareholders of the applicant company to the proposed Scheme of Amalgamation amalgamating Amishi Petrochem Pvt.Ltd [Transferor Company] with the Transferee Company. It is also further prayed to pass an appropriate order of convening the meetings of the secured creditors and unsecured creditors of the applicant company for the purpose of considering and if thought fit approving with or without modification the proposed scheme of amalgamation amalgamating the Transferor Company with Transferee Company.

2. Shri Harmish Shah, learned advocate appearing for the applicant has drawn the attention of this Court to Pages No. 89 to 96 [Annexure 'D' to the application] and has submitted that all the equity shareholders of the applicant company have given their consent/approval to the proposed Scheme of Amalgamation of Amishi Petrochem Pvt.Ltd., with Avani Petrochem Pvt.Ltd. Having procured and produced written consent of all the equity

shareholders of the applicant company to the proposed scheme of amalgamation it is requested to dispense with meeting of equity shareholders of the applicant company as required under Section 391(2) of the Companies Act, 1956.

3. Having procured and produced the consent of all the equity shareholders of the applicant company to the proposed Scheme of Amalgamation amalgamating Avani Petrochem Pvt.Ltd. with the applicant company the meeting of the equity shareholders as required to be held under Section 391(2) of the Companies Act, 1956, is hereby dispensed with.

4. So far as separate meeting of the unsecured creditors and secured creditors is concerned, it is ordered;

(1) That meeting of the Secured Creditors of the applicant company shall be convened and held at 101-Silver Oak, Srinagar Society, BPC Road,

Akota, Vadodara-390020 on 16th April 2007 at 11.00 A.M. for the purpose of considering and if thought fit approving with or without modification the compromise or arrangement proposed to be made between the applicant company and Amishi Petrochem Pvt.Ltd., after giving notice in accordance with the provisions of Section 391 and 393 of the Companies Act, 1956.

(2) That meeting of the Unsecured Creditors of an amount of Rs. 5000/- and above of the applicant company shall be convened and held at 101-Silver Oak, Srinagar Society, BPC Road, Akota, Vadodara-390020 on 16th April 2007 at 12.00 Noon for the purpose of considering and if thought fit approving with or without modification the compromise or arrangement proposed to be made between the applicant company and Amishi Petrochem Pvt.Ltd., after giving notice in accordance with the provisions of Section 391 and 393 of the Companies Act, 1956.

(3) That at least 21 clear days before the

meetings to be held as aforesaid, an advertisement convening the said meetings, indicating the day, the date, the place and the time of the aforesaid and stating that the copies of the said scheme of Amalgamation and of the statement required to be furnished pursuant to Section 393 of the Companies Act, 1956 and the prescribed Form of Proxy can be obtained free of charge at the Registered office of the applicant company or at its and/or at its Advocate's i.e. Shri Harmish Shah, 301, Prakruti Annex-B, New Sharda Mandir Road, Paldi, Ahmedabad-380007. be inserted once in “Indian Express”, English daily and “Sandesh”, Gujarati daily both Baroda Editions. Publication of the advertisement in the Gujarat Government Gazette is dispensed with.

(4) That Shri Dakshay Hasmukhbhai Thakkar and failing him Shri Amishi Shah shall be Chairman of the aforesaid meetings to be held on 26th March 2007 and in respect of any adjournments thereof.

(5) That the Chairman appointed for the

aforesaid meetings do issue the advertisement and send out notices of the said meetings referred to above. The Chairman shall be free to avail the services of the applicant company or any agency for carrying out the said direction. It is further directed that the Chairman of the meetings shall have all powers under Articles of Association of the applicant company and under the Companies (Court) Rules, 1959 in relation to conduct of meeting including an amendment to the aforesaid scheme of Amalgamation or resolution, if any, proposed at the aforesaid meetings by any person(s) and to ascertain the decision of the meeting on a poll.

(6) That the quorum for the meetings so far as Unsecured Creditors are concerned shall be 5(five) persons, and so far as Secured Creditors are concerned, two persons may present in person or by proxy.

(7) That voting by proxy be permitted

provided that the proxy in the prescribed form duly signed by the persons entitled to attend and vote at the aforesaid meeting is filed with the applicant company at its registered office at Gheekanta, Raopura, Vadodara-390001, State of Gujarat not later than 48 hours before the said meetings.

(8) That the value of each member shall be in accordance with the books of the applicant company and where the entries in the books are disputed the Chairman shall determine the value for purposes of the meeting and his decision in that behalf shall be final.

(9) It is further ordered that the Chairman shall report to this court, the result of the said meeting within 14 days of the conclusion of the meeting and the said report shall be verified by his affidavit.

5. This application is accordingly disposed

of.

[M.R. Shah, J.]

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